

AMENDED IN SENATE JUNE 15, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1583

Introduced by Assembly Member Roger Hernández
(Coauthor: Assembly Member Galgiani)

February 2, 2012

An act to amend Sections 22750, 22753, and 22755 of, and to add Section 21609.7 to, the Business and Professions Code, relating to bulk merchandise pallets.

LEGISLATIVE COUNSEL'S DIGEST

AB 1583, as amended, Roger Hernández. Bulk merchandise pallets.

(1) Existing law authorizes junk dealers and recyclers, as defined, to sell and purchase junk, which includes secondhand and used furniture, pallets, or other personal property, as specified. Existing law requires junk dealers and recyclers to maintain written records of specified information, and makes a violation of the recordkeeping requirements a misdemeanor.

This bill would prohibit junk dealers and recyclers from purchasing or receiving bulk merchandise pallets, as defined, marked with an indicia of ownership, as defined, from anyone except the indicated owner, unless specified information is provided to the junk dealer or recycler, and would require the junk dealer or recycler to maintain a written record of that information. The bill would also require that payment by the junk dealer for 5 or more bulk merchandise pallets *to a person other than the indicated owner* be made by check mailed to the address of

the seller, as specified, or by check or cash on or after the 3rd business day following the transaction.

(2) Existing law defines a merchandise pallet as a wooden or plastic carrier or container of specified size, used by a manufacturer or distributor to transport merchandise to retail outlets, which has a notice permanently affixed to it identifying the owner of the pallet and providing other specified information. Existing law prohibits and makes it a crime for an unauthorized person, as defined, to possess a merchandise pallet or for a person other than its owner to obliterate the identification notice on a pallet.

This bill would expand these provisions to cover merchandise pallets marked with indicia of ownership, as defined. The bill would also prohibit and make it a crime for a person other than the owner of the pallet to obliterate the indicia of ownership from a merchandise pallet.

(3) Existing law requires any person or entity purchasing plastic bulk merchandise containers who is in the business of recycling, shredding, or destruction of plastic bulk merchandise containers, as defined, to obtain a proof of ownership record and other identifying information from a person selling 5 or more containers, and to retain the required record for a specified time. A violation of these provisions is a misdemeanor.

This bill would instead require a person or entity purchasing or transporting plastic bulk merchandise containers who is in the business of recycling, shredding, or destruction of plastic bulk merchandise containers, or is in the business of transporting plastic bulk merchandise containers for those purposes, to obtain a proof of ownership record or bill of lading and other identifying information from the person selling or delivering 5 or more containers, and to retain the required record for a specified time. ~~The bill would also require that payment for 5 or more plastic bulk merchandise containers be made by check mailed to the address of the seller, as specified, or by check or cash on or after the 3rd business day following the transaction.~~

Because this bill would expand the scope of a crime, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21609.7 is added to the Business and
2 Professions Code, to read:

3 21609.7. (a) Except as provided in subdivision (b), no junk
4 dealer or recycler may purchase or receive bulk merchandise pallets
5 marked with an indicia of ownership from any person or entity
6 other than the indicated owner. For purposes of this section,
7 “indicia of ownership” means words, symbols, or registered
8 trademarks printed, stamped, etched, attached, or otherwise
9 displayed on the exterior surface of the merchandise pallet that
10 reasonably identifies the owner.

11 (b) If the seller is not the indicated owner, a junk dealer or
12 recycler may purchase or receive bulk merchandise pallets only if
13 the seller or transferor provides a receipt from the indicated owner
14 verifying the seller’s current ownership or a document indicating
15 that the seller or transferor is authorized by the indicated owner
16 to sell or transfer the merchandise pallets. Copies of these
17 documents shall be maintained by the junk dealer or recycler as
18 part of the written record of the transaction.

19 (c) For a single transaction involving five or more bulk
20 merchandise pallets marked with indicia of ownership *where the*
21 *seller is not the indicated owner*, the junk dealer or recycler shall
22 make payment only by a check mailed to the address shown on
23 the driver’s license or other government-issued photo identification
24 provided by the seller or by cash or check collected by the seller
25 on or after the third business day following the date of the
26 transaction.

27 (d) For purposes of this section, “bulk merchandise pallets”
28 means plastic or wood containers, carriers, or holders used by a
29 manufacturer or distributor for bulk transport of merchandise to
30 wholesale or retail outlets.

31 SEC. 2. Section 22750 of the Business and Professions Code
32 is amended to read:

33 22750. For purposes of this chapter:

34 (a) “Bakery tray” or “bakery basket” is a plastic or metal
35 container that holds bread or other baked goods and is used by a

1 distributor, retailer, or an agent of the distributor or retailer as a
2 means to transport, store, or carry those products, which has a
3 notice permanently affixed to it that does all of the following: (1)
4 identifies the company name of the owner of the item; (2) notifies
5 the public that the unauthorized possession of the item is a violation
6 of state law; and (3) lists an address or telephone number for
7 returning the item to the owner.

8 (b) “Merchandise pallet” is a wooden or plastic carrier or
9 container, used by a manufacturer or distributor for bulk transport
10 of merchandise to wholesale or retail outlets marked with an indicia
11 of ownership. For purposes of this chapter, “indicia of ownership”
12 means words, symbols, or registered trademarks printed, stamped,
13 etched, attached, or otherwise displayed on the exterior surface of
14 the merchandise pallet that reasonably identify the owner.

15 SEC. 3. Section 22753 of the Business and Professions Code
16 is amended to read:

17 22753. The following acts are punishable as provided in
18 subdivision (b) of Section 489 or in Section 490 of the Penal Code
19 as to any bakery tray, bakery basket, or merchandise pallet
20 described in Section 22750:

21 (a) Possession of a bakery tray, bakery basket, or merchandise
22 pallet by an unauthorized person.

23 (b) Obliteration of the company owner’s name on the bakery
24 tray or bakery basket, or obliteration of the indicia of ownership
25 on a merchandise pallet, except by the owner.

26 SEC. 4. Section 22755 of the Business and Professions Code
27 is amended to read:

28 22755. (a) For purposes of this section, ~~a plastic~~ “*plastic bulk*
29 ~~merchandise container~~ *container*” means a plastic crate or shell
30 used by a product producer, distributor, or retailer, or an agent of
31 the product producer, distributor, or retailer as a means for the
32 bulk transportation, storage, or carrying of retail containers of
33 milk, eggs, or bottled beverage products.

34 (b) Any person or entity purchasing or transporting plastic bulk
35 merchandise containers, who is in the business of recycling,
36 shredding, or destruction of, or in the business of transporting for
37 the purpose of recycling, shredding, or destruction of, plastic bulk
38 merchandise containers, shall obtain a proof of ownership record
39 or bill of lading from a person selling or delivering five or more
40 plastic bulk merchandise containers that shows that the person

1 selling or delivering the containers has lawful possession or
2 ownership of the containers, and shall also verify the seller's
3 identity by a driver's license or other government-issued photo
4 identification. The proof of ownership record shall include all of
5 the following information:

6 (1) The name, address, telephone number, and signature of the
7 seller or the seller's authorized representative.

8 (2) The name and address of the buyer or consignee if not sold.

9 (3) A description of the product including number of units.

10 (4) The date of transaction.

11 ~~(e) For a single transaction involving five or more plastic bulk~~
12 ~~merchandise containers, the purchaser shall make payment only~~
13 ~~by a check mailed to the address shown on the driver's license or~~
14 ~~other government-issued photo identification provided by the seller~~
15 ~~or by cash or check collected by the seller on or after the third~~
16 ~~business day following the date of the transaction.~~

17 ~~(d)~~

18 (c) The information required to be collected by this section shall
19 be kept for one year from the date of purchase or delivery,
20 whichever is later.

21 ~~(e)~~

22 (d) Any person who violates the provisions of this section is
23 guilty of a misdemeanor.

24 SEC. 5. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.